

## **Working Group on the Development of the Lisbon System (Appellations of Origin)**

**Fifth Session**  
**Geneva, June 11 to 15, 2012**

### **DRAFT NEW INSTRUMENT ON THE INTERNATIONAL REGISTRATION OF GEOGRAPHICAL INDICATIONS AND APPELLATIONS OF ORIGIN**

*Document prepared by the Secretariat*

1. At its fourth session, which took place in Geneva from December 12 to December 16, 2011, the Working Group on the Development of the Lisbon System (Appellations of Origin) (hereinafter referred to as “the Working Group”) requested the International Bureau of the World Intellectual Property Organization (WIPO) to prepare revised versions of the draft new instrument and draft regulations, as set out in documents LI/WG/DEV/4/2 and LI/WG/DEV/4/3, incorporating, where appropriate, alternative provisions and different options between brackets, on the basis of comments made during the fourth session of the Working Group.
2. The Annex to the present document contains the draft new instrument. The revised draft regulations are contained in document LI/WG/DEV/5/3. Notes explaining the various provisions of the revised draft new instrument and revised draft regulations are contained in documents LI/WG/DEV/5/4 and LI/WG/DEV/5/5, respectively.
3. It is recalled that the objective of the Working Group is to review the international registration system of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (hereinafter referred to as “the Lisbon Agreement”) with a view to making the system more attractive for users and prospective new members, while preserving the principles and objectives of the Lisbon Agreement.
4. Paragraph 5, below, invites the Working Group to consider the revised draft new instrument provision by provision. In addition, it would be helpful, for planning purposes, if the Working Group could give guidance on the likely evolution of future work, particularly with

respect to the number of further sessions of the Working Group needed before a Diplomatic Conference might be convened. In this last respect, it will be necessary for the Working Group to form a position on the options set out in Article 2(i) of the draft new instrument.

5. *The Working Group is invited to:*

*(i) comment on the various provisions of the draft new instrument contained in the Annex;*

*(ii) make recommendations on future work or any follow-up action of the Working Group.*

[Annex follows]

**DRAFT NEW INSTRUMENT ON THE INTERNATIONAL REGISTRATION OF  
GEOGRAPHICAL INDICATIONS AND APPELLATIONS OF ORIGIN**

LIST OF ARTICLES

*Chapter I: Introductory and General Provisions*

- Article 1: Special Union
- Article 2: Abbreviated Expressions
- Article 3: Competent Authority
- Article 4: International Register
- Article 5: Protection of registered Geographical Indications and Appellations of Origin
- Article 6: Protection by virtue of other Texts

*Chapter II: Application and International Registration*

- Article 7: Application
- Article 8: International Registration
- Article 9: Fees

*Chapter III: Effects of International Registration*

- Article 10: Protection accorded by International Registration
- Article 11: Shield against becoming a [Generic Indication] [Customary Term or Name]
- Article 12: Duration of Protection
- Article 13: Prior Rights
- Article 14: [Legal Proceedings] [Legal Remedies]

*Chapter IV: Refusal and other Actions in respect of International Registration*

- Article 15: Refusal
- Article 16: Withdrawal of Refusal
- Article 17: Prior Use
- Article 18: Notification of Grant of Protection
- Article 19: Invalidation
- Article 20: Modifications and other Entries in the International Register

*Chapter V: Administrative Provisions*

- Article 21: Assembly of the Special Union
- Article 22: International Bureau
- Article 23: Regulations
- Article 24: Finances

*Chapter VI: Revision and Amendment*

- Article 25: Revision  
Article 26: Amendment of certain Articles by the Assembly

*Chapter VII: Final Provisions*

- Article 27: Becoming Party to the Agreement  
Article 28: Effective Date of Ratifications and Accessions  
Article 29: Prohibition of Reservations  
Article 30: Application of the Lisbon Agreement  
Article 31: Denunciation of the Agreement  
Article 32: Languages of the Agreement; Signature  
Article 33: Depositary

## Chapter I Introductory Provisions

### Article 1 Special Union

(1) *[Membership of the Special Union]* The Contracting Parties

[Option A]: shall constitute a Special Union within the framework of the Union for the Protection of Industrial Property]

[Option B]: shall be members of the same Special Union as the States party to the Lisbon Agreement, whether or not they are party to that Agreement].

(2) *[Obligation to comply with the Paris Convention]* The Contracting Parties agree to apply the provisions of the Paris Convention.

### Article 2 Abbreviated Expressions

For the purposes of the Agreement, unless expressly stated otherwise:

(i) “The Agreement” refers to the present

[Option A]: Act revising the Lisbon Agreement]

[Option B]: Protocol supplementing the Lisbon Agreement]

[Option C]: Agreement on the International Registration of Geographical Indications and Appellations of Origin];

(ii) “appellation of origin” means an appellation of origin, as defined in Article 5;

(iii) “application” means an application for international registration;

(iv) “Article” refers to an Article of the Agreement;

(v) “Competent Authority” means the entity designated by a Contracting Party under Article 3;

(vi) “Contracting Party” means any State or intergovernmental organization party to the Agreement;

(vii) “Contracting Party of Origin” means the Contracting Party where the geographical area of origin is situated, as referred to in Article 5(3) or Article 5(4), and under whose legislation that geographical area has been delimited;

(viii) “Director General” means the Director General of the Organization;

(ix) “geographical area of origin” means the geographical area referred to in Article 5(3) or Article 5(4) to which a geographical indication or an appellation of origin refers;

(x) “geographical indication” means a geographical indication, as defined in Article 5;

(xi) “International Bureau” means the International Bureau of the Organization;

(xii) “intergovernmental organization” means an intergovernmental organization eligible to become party to the Agreement in accordance with Article 27(1)(ii);

(xiii) “International Register” means the International Register maintained by the International Bureau in accordance with Article 4 as the official collection of data concerning international registrations, regardless of the medium in which such data are maintained;

- (xiv) “international registration” means an international registration recorded in the International Register;
- (xv) “Lisbon Agreement” means the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958, as revised and amended;
- (xvi) “Madrid Agreement on Indications of Source” means the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, of April 14, 1891, as revised and amended;
- (xvii) “Organization” means the World Intellectual Property Organization;
- (xviii) “Paris Convention” means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised and amended;
- (xix) “registered” means entered in the International Register in accordance with the Agreement;
- (xx) “Regulations” means the Regulations referred to in Article 23;
- (xxi) “Trans-border geographical area of origin” means a geographical area of origin situated in more than one Contracting Party;
- (xxii) “TRIPS Agreement” means the Agreement on Trade-Related Aspects of Intellectual Property Rights of April 15, 1994, as set out in Annex 1C to the Marrakesh Agreement Establishing the World Trade Organization and as amended;
- (xxiii) The singular shall include the plural and vice versa.

### **Article 3**

#### Competent Authority

Each Contracting Party shall designate an entity which shall be responsible for the administration of the Agreement in its territory and for communications with the International Bureau under the Agreement and the Regulations.

### **Article 4**

#### International Register

(1) *[Establishment of International Register]* The International Bureau shall maintain an International Register recording international registrations of geographical indications and appellations of origin made in accordance with the provisions of the Agreement and data relating to the status of such international registrations.

(2) *[Two Parts]* The International Register shall be divided into two parts. Part A shall relate to geographical indications and shall contain data concerning international registrations of geographical indications effected under the Agreement. Part B shall relate to appellations of origin and shall contain data concerning international registrations of appellations of origin effected under the Agreement or under the Lisbon Agreement.

## Article 5

### Protection of registered Geographical Indications and Appellations of Origin

(1) *[Obligation to protect registered Geographical Indications]* Each Contracting Party shall protect on its territory, in accordance with the terms of the Agreement, registered geographical indications.

(2) *[Obligation to protect registered Appellations of Origin]*

(a) Subject to sub-paragraph (b), each Contracting Party shall protect on its territory, in accordance with the terms of the Agreement, registered appellations of origin.

[Option A:

(b) A Contracting Party that does not provide protection for appellations of origin separately from geographical indications may declare that it will not extend protection on its territory to registered appellations of origin.

(c) The declaration may be made by the Contracting Party at the time of deposit of its instrument of ratification or accession or at any later time. Where the declaration is made at the time of the deposit of its instrument of ratification or accession, it shall take effect upon the entry into force of the Agreement with respect to that Contracting Party. Where the declaration is made after the entry into force of the Agreement with respect to the Contracting Party, it shall take effect three months after the date on which the Director General has received the declaration.

(d) A declaration may be withdrawn by a Contracting Party. The withdrawal shall take effect three months after the date on which the Director General has received the notification of withdrawal or at any later date indicated in the notification.]

[Option B:

(b) Registered appellations of origin shall be protected as appellations of origin in Contracting Parties providing protection for appellations of origin separately from geographical indications and as geographical indications in Contracting Parties that do not provide protection for appellations of origin separately from geographical indications.]

(3) *[Definition of Geographical Indication]*

(a) A geographical indication means an indication which identifies a good as originating in a geographical area situated in a Contracting Party, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.

(b) Indications which are not, *stricto sensu*, geographical may also be considered to constitute geographical indications if they fulfill all the other conditions of sub-paragraph (a).

(c) The geographical area of origin may be situated in more than one Contracting Party if the area is delimited under common legislation of those Contracting Parties.

(4) *[Definition of Appellation of Origin]* An appellation of origin means a geographical indication constituted by a denomination

(i) which serves to designate a product as originating in a geographical area situated in a Contracting Party where the quality or characteristics of the product are due exclusively or essentially to the geographical environment, including natural [and][and/or] human factors;

(ii) which has given the product its reputation.

(5) *[Form of Legal Protection]* Each Contracting Party shall be free to determine the form of legal protection that it shall use to fulfill its obligations under the Agreement and in particular, under this Article. Such forms of legal protection may include, but shall not be limited to, *sui generis* legislation for the protection of geographical indications or appellations of origin and trademark legislation.

## Article 6

### Protection by virtue of other Texts

- (1) *[Freedom to provide more extensive Protection]* Contracting Parties shall be free to provide more extensive protection than the protection established under the Agreement.
- (2) *[Protection under other Instruments]* The protection established under the Agreement shall be without prejudice to any protection granted under other international instruments, such as the Paris Convention, the Madrid Agreement on Indications of Source, the TRIPS Agreement or bilateral agreements.

## Chapter II

### Application and International Registration

## Article 7

### Application

- (1) *[Protection in Contracting Party of Origin]*
- (a) Where a geographical indication is protected in a Contracting Party of Origin as a geographical indication, an application may be filed
- (i) for the international registration of the geographical indication, and
  - (ii) for the international registration of the geographical indication as an appellation of origin, provided that the application contains the particulars of the geographical area of origin and a description of the connection between the quality or characteristics of the product referred to by the geographical indication and its geographical environment.
- (b) Where an appellation of origin is protected in a Contracting Party of Origin as an appellation of origin, an application may be filed for the international registration of the appellation of origin as a geographical indication or as an appellation of origin.
- (c) Protection in the Contracting Party of Origin may be established by means of a legislative or administrative act, a judicial or administrative decision, or registration.
- (2) *[Place of Filing]* Applications shall be filed with the International Bureau.
- (3) *[Application filed by Competent Authority]* Subject to paragraph (4), the application for the registration of a geographical indication or an appellation of origin shall be filed by the Competent Authority in the name of:
- (i) the holder of the right, under the applicable law, to use the geographical indication or appellation of origin; or
  - (ii) a legal entity, such as a federation or association, which represents the holders of the right, under the applicable law, to use the geographical indication or appellation of origin and which has legal standing to assert that right.
- (4) *[Application filed directly by Beneficiaries]* If the legislation of the Contracting Party of Origin so permits, the application may be filed by the holder or the legal entity referred to in the preceding paragraph.



(5) *[Applications concerning trans-border areas]* In case of a trans-border geographical area of origin, the Contracting Parties concerned may:

(i) each file an application as Contracting Party of Origin in respect of a geographical indication or appellation of origin referring to the part of the trans-border area situated in its territory; or

(ii) act as a single Contracting Party of Origin by filing an application jointly and through a commonly designated Competent Authority; or

(iii) if their legislation so permits, allow the holder or legal entity referred to in the preceding paragraph to file such an application.

(6) *[Mandatory Contents]* The Regulations shall specify the mandatory particulars that must be included in the application.

(7) *[Optional Contents]* The Regulations may specify optional particulars that may be included in the application.

## **Article 8** International Registration

(1) *[Registration as Geographical Indication]* Upon receipt of an application for the international registration of a geographical indication in due form, the International Bureau shall register the geographical indication in the International Register.

(2) *[Registration as Appellation of Origin]* Upon receipt of an application for the international registration of an appellation of origin in due form, the International Bureau shall register the appellation of origin in the International Register.

(3) *[Date of International Registration]* Subject to paragraph (4), the date of the international registration shall be the date on which the international application was received by the International Bureau.

(4) *[Date of International Registration where Particulars missing]* Where the application does not contain all the following particulars:

(i) the identification of the Competent Authority or, in the case of Article 7(4), the applicant,

(ii) the details of the holder of the right to use the geographical indication or appellation of origin,

(iii) the geographical indication or appellation of origin for which registration is sought,

(iv) the description of the product to which the geographical indication or appellation of origin applies,

the date of the international registration shall be the date on which the last of the missing particulars is received by the International Bureau.

(5) *[Entries in International Register where Protection accorded on basis of other Definition]* Where a geographical indication or an appellation of origin has been granted protection in the Contracting Party of Origin on the basis of a definition other than the one established under Article 5:

(i) the international registration of such geographical indication shall specify the particulars of the geographical area of origin and a description of the connection between the quality, reputation, or other characteristic of the product and its geographical area of origin;

(ii) the international registration of such appellation of origin shall specify the particulars of the geographical area of origin and a description of the connection between the quality or characteristics of the product and its geographical area of origin.

(6) *[Publication and Notification of International Registrations]* The International Bureau shall, without delay, publish each international registration and shall notify the Competent Authority of each Contracting Party of the international registration.

## **Article 9**

### **Fees**

(1) *[Registration Fee]* Registration of each geographical indication or appellation of origin shall be subject to the payment of the fee specified in the Regulations.

(2) *[Other Fees]* The Regulations shall also specify the fee to be paid for in respect of other entries in the International Register and for the supply of extracts, attestations, or other information concerning the contents of the international registration.

## **Chapter III**

### **Effects of International Registration**

## **Article 10**

### **Protection accorded by International Registration**

(1) *[Geographical Indications]* Subject to the provisions of the Agreement, each Contracting Party shall, from the date of international registration, extend to a registered geographical indication the same protection

[Option A]: as if the geographical indication had been granted protection under its applicable law]

[Option B]: as the protection accorded to a registered appellation of origin].

(2) *[Appellations of Origin]*

(a) Subject to the provisions of the Agreement, each Contracting Party shall, from the date of international registration, extend to a registered [geographical indication or] appellation of origin protection against at least the following acts:

(i) any [direct or indirect] use of the appellation of origin in relation to a product which is of the same kind as the product to which the appellation of origin applies but which does not originate in the geographical area of origin, where such use

[Option A]: would amount to usurpation, imitation, [or evocation] of the [geographical indication or] appellation of origin]

[Option B]: would be [likely to be] detrimental to or [to] exploit unduly the reputation of the [geographical indication or] appellation of origin]

[Option C]: would result in a likelihood of confusion],

even if the true origin of the product is indicated or if the appellation of origin is used in translated form or accompanied by terms such as ["kind", "type", "make", "imitation"], ["style"], ["method"], ["as produced in"], ["like"], ["similar"], or the like;

(ii) any [direct or indirect] commercial use of the [geographical indication or] appellation of origin in relation to a product which is not of the same kind as the product to which the appellation of origin applies but which is to be considered [comparable], [identical or similar], [related or linked] to such a product, where such use

[Option A: would be [likely to be] detrimental to or [to] exploit unduly the reputation of the [geographical indication or] appellation of origin]

[Option B: would result in a likelihood of confusion];

[(iii) any other false or misleading indications as to the provenance, origin, nature or essential qualities of a product to which the appellation of origin applies on the inner or outer packaging, advertising material or documents relating to the product, or any packing of the product in a container liable to convey a false impression as to its origin;]

[(iv) any other practice liable to mislead the consumer as to the true origin of the product.]

(b) Contracting Parties shall refuse or invalidate the registration of a trademark which contains or consists of a geographical indication or appellation of origin with respect to products not originating in the geographical area of origin, subject to the provisions of the TRIPS Agreement.

(3) [*Improper Use by Eligible or Authorized Users*] Each Contracting Party shall be free to decide how to regulate the use of a registered geographical indication or appellation of origin by a person from the geographical area of origin in relation to a product originating in that area where the use is not in conformity with the requirements for use of the geographical indication or appellation of origin.

(4) [*Presumption in case of Use by Third Parties*] Each Contracting Party shall provide for a presumption of unlawful use wherever a registered geographical indication or appellation of origin is used by a person who is not authorized to do so in the international registration in relation to a product of the same kind as that to which the geographical indication or appellation of origin applies.

(5) [*Homonymy*] Contracting Parties shall apply the provisions of the TRIPS Agreement to the protection of homonymous geographical indications and appellations of origin.

(6) [*Use as a [Generic Indication] [Customary Term or Name]*] Use of a registered geographical indication or appellation of origin as a [Generic Indication] [Customary Term or Name] shall be prohibited from the date of international registration in each Contracting Party unless the Contracting Party has refused the effects of the international registration, or granted a transitional period, under Article 17.

### **Article 11**

Shield against becoming a [Generic Indication] [Customary Term or Name]

A registered geographical indication or appellation of origin in effect in a Contracting Party may not be considered to have become a

[Option A: generic indication for certain goods or services]

[Option B: term customary in common language as the common name for certain goods or services or the customary name of a grape variety],

as long as it is protected as a geographical indication or an appellation of origin in the Contracting Party of Origin.

### **Article 12**

Duration of Protection

The effects of an international registration shall cease if a registered geographical indication or appellation of origin ceases to enjoy protection in the territory of the Contracting Party of Origin.

### **Article 13**

Prior Rights

(1) [*Prior Trademark Rights*] Contracting Parties shall apply the provisions of the TRIPS Agreement relating to prior trademark rights.

(2) [*Other Prior Rights*] Contracting Parties shall apply the provisions of the TRIPS Agreement relating to other prior rights.

### **Article 14**

[Legal Proceedings]

[Legal Remedies]

[Option A: Each Contracting Party shall ensure that legal proceedings for ensuring the protection of registered geographical indications or appellations of origin may be brought by:

(i) the public Prosecutor or, where the applicable law so provides, another public authority;

(ii) any interested party, whether a natural person or a legal entity and whether public or private.]

[Option B: Each Contracting Party shall provide effective legal remedies for the protection of registered geographical indications and appellations of origin.]

## **Chapter IV**

### **Refusal and other Actions in respect of International Registration**

#### **Article 15**

##### Refusal

(1) *[Refusal of Effects of International Registration]*

(a) Within the time specified in the Regulations, the Competent Authority of a Contracting Party may notify the International Bureau of the refusal of the effects of an international registration in its territory. The notification of refusal may be filed by the Competent Authority ex officio, if its legislation so permits, or at the request of an interested party.

(b) The notification of refusal shall set out the grounds on which the refusal is based.

(c) The notification of a refusal shall not affect any other protection that may be available, in accordance with Article 6, to the registered geographical indication or appellation of origin in the Contracting Party to which the refusal relates.

(2) *[Obligation to provide Opportunity for Interested Parties]* Each Contracting Party shall provide a reasonable opportunity to interested parties to present to its Competent Authority requests for the Competent Authority to notify a refusal in respect of an international registration.

(3) *[Registration and Communication of Refusals]* The International Bureau shall record the refusal and the grounds for the refusal in the International Register. It shall publish the refusal and the grounds for the refusal and shall communicate them to the Competent Authority of the Contracting Party of Origin or, where the application has been filed directly in accordance with Article 7(4), the concerned natural person or legal entity.

(4) *[National Treatment]* Each Contracting Party shall make available to interested parties affected by a refusal the same judicial and administrative remedies that are available to its own nationals in respect of the refusal of protection for a geographical indication or appellation of origin, as the case may be.

#### **Article 16**

##### Withdrawal of Refusal

(1) *[Procedures for the Withdrawal of Refusals]* A refusal may be withdrawn in accordance with the procedures specified in the Regulations. A withdrawal shall be recorded in the International Register.

(2) *[Negotiations between Interested Parties]* Interested parties affected by a refusal shall be afforded a reasonable opportunity to negotiate the possible withdrawal of the refusal.

## **Article 17** Prior Use

(1) *[Phasing Out]* Without prejudice to the right of refusal under Article 15, where the registered geographical indication or appellation of origin was in use, prior to the international registration of the geographical indication or appellation of origin, in a Contracting party by a third party as a

[Option A: generic indication for certain goods or services]

[Option B: term customary in common language as the common name for certain goods or services or the customary name of a grape variety],

the Contracting Party may grant to the third party a defined period to terminate such use. The Contracting Party shall notify the International Bureau of any such grant.

(2) *[Withdrawal of Refusal on Ground of Prior Use]* Where a Contracting Party has refused the effects of an international registration under Article 15 on the ground of prior use and wishes to withdraw the refusal, it may make the withdrawal subject to the prior use terminating after a defined period of time.

(3) *[Coexistence]* Where a Contracting Party has refused the effects of an international registration under Article 15 on the ground of prior use under a trademark or other right, the withdrawal of the refusal shall establish a situation of coexistence between the prior right and the registered geographical indication or appellation of origin, unless the prior right is cancelled, revoked or invalidated.

## **Article 18** Notification of Grant of Protection

The Competent Authority of a Contracting Party may notify the International Bureau of the grant of protection to a registered geographical indication or appellation of origin. The International Bureau shall record any such notification in the International Register and publish it.

## **Article 19** Invalidation

(1) A Contracting Party may not invalidate the effects of an international registration on its territory without giving the concerned natural person or legal entity referred to in Article 7(3) an opportunity to defend its rights.

(2) Each Contracting Party shall notify the invalidation of an international registration to the International Bureau, which shall record the invalidation in the International Register and publish it.

## **Article 20** Modifications and other Entries in the International Register

Procedures for the modification of international registrations and other entries in the International Register shall be specified in the Regulations.

## Chapter V Administrative Provisions

### Article 21 Assembly of the Special Union

(1) *[Composition]*

(a) [Option A: The Special Union shall have an Assembly consisting of the Contracting Parties.]

[Option B: The Contracting Parties shall be members of the same Assembly as the States party to the Lisbon Agreement.]

(b) Each Contracting Party shall be represented by one delegate, who may be assisted by alternate delegates, advisors and experts.

(c) Each delegation shall bear its own expenses.

[(d) Members of the Special Union that are not members of the Assembly shall be admitted to the meetings of the Assembly as observers.]

(2) *[Tasks]*

(a) The Assembly shall:

(i) deal with all matters concerning the maintenance and development of the Special Union and the implementation of the Agreement;

(ii) give directions to the Director General concerning the preparation of revision conferences referred to in Article 25(1)[, due account being taken of any comments made by those members of the Special Union which have not ratified or acceded to the Agreement];

(iii) have competence to amend the Regulations[, including the amount of the fee referred to in Article 8 and other fees relating to international registration];

(iv) review and approve the reports and activities of the Director General concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union;

(v) determine the program and adopt the biennial budget of the Special Union, and approve its final accounts;

(vi) adopt the financial regulations of the Special Union;

(vii) establish such committees and working groups as it deems appropriate to achieve the objectives of the Special Union;

(viii) [subject to paragraph (1)(d),] determine which States, intergovernmental and non-governmental organizations shall be admitted to its meetings as observers;

(ix) adopt amendments to Articles 21, 22, 24 and 26;

(x) take any other appropriate action to further the objectives of the Special Union and perform any other functions as are appropriate under the Agreement.

(b) With respect to matters which are of interest also to other Unions administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

(3) *[Quorum]*

(a) One-half of the members of the Assembly which are States and have the right to vote on a given matter shall constitute a quorum for the purposes of the vote on that matter.

(b) Notwithstanding the provisions of subparagraph (a), if, in any session, the number of the members of the Assembly which are States, have the right to vote on a given matter and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States and have the right to vote on that matter, the Assembly may make

decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States, have the right to vote on the said matter and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect provided that at the same time the required majority still obtains.

(4) *[Taking Decisions in the Assembly]*

- (a) The Assembly shall endeavor to take its decisions by consensus.
- (b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,
  - (i) each Contracting Party that is a State shall have one vote and shall vote only in its own name, and
  - (ii) any Contracting Party that is an intergovernmental organization may vote, in place of its member States, with a number of votes equal to the number of its member States which are party to the Agreement, but no such intergovernmental organization shall participate in the vote if any one of its member States exercises its right to vote, and *vice versa*.
- [(c) On matters concerning only States that are bound by the Lisbon Agreement, Contracting Parties that are not bound by that Agreement shall not have the right to vote, whereas, on matters concerning Contracting Parties, only the latter shall have the right to vote.]

(5) *[Majorities]*

- (a) Subject to Articles 23(2) and 26(2), the decisions of the Assembly shall require two-thirds of the votes cast.
- (b) Abstentions shall not be considered as votes.

(6) *[Sessions]*

- (a) The Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.
- (b) The Assembly shall meet in extraordinary session upon convocation by the Director General, either at the request of one-fourth of the members of the Assembly or on the Director General's own initiative.
- (c) The agenda of each session shall be prepared by the Director General.

(7) *[Rules of Procedure]* The Assembly shall adopt its own rules of procedure.

**Article 22**  
International Bureau

(1) *[Administrative Tasks]*

- (a) International registration and related duties, as well as all other administrative tasks concerning the Special Union, shall be performed by the International Bureau.
- (b) In particular, the International Bureau shall prepare the meetings and provide the Secretariat of the Assembly and of such committees and working groups as may have been established by the Assembly.
- (c) The Director General shall be the Chief Executive of the Special Union and shall represent the Special Union.



(2) *[Meetings Other than Sessions of the Assembly]* The Director General and any staff member designated by him shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly. The Director General, or a staff member designated by him, shall be *ex officio* Secretary of such a body.

(3) *[Conferences]*

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for [the] [any revision] conferences [referred to in Article 25(1) to revise the provisions of the Agreement other than Articles 21, 22, 24, and 26].

(b) The International Bureau may consult with intergovernmental and international and national non-governmental organizations concerning the said preparations.

(c) The Director General and persons designated by him shall take part, without the right to vote, in the discussions at revision conferences.

(4) *[Other tasks]* The International Bureau shall carry out any other tasks assigned to it in relation to the Agreement.

### **Article 23** Regulations

(1) *[Subject Matter]* The details for carrying out the Agreement shall be established in the Regulations.

(2) *[Amendment of Certain Provisions of the Regulations]*

(a) The Regulations may specify that certain provisions of the Regulations may be amended only by unanimity or only by a three-fourths majority.

(b) In order for the requirement of unanimity or a three-fourths majority no longer to apply in the future to the amendment of a provision of the Regulations, unanimity shall be required.

(c) In order for the requirement of unanimity or a three-fourths majority to apply in the future to the amendment of a provision of the Regulations, a three-fourths majority shall be required.

(3) *[Conflict between this Act and the Regulations]* In the case of conflict between the provisions of the Agreement and those of the Regulations, the former shall prevail.

### **Article 24** Finances

(1) *[Budget]*

(a) The Special Union shall have a budget.

(b) The budget of the Special Union shall include the income and expenses specific to the Special Union and its contribution to the budget of expenses common to the Unions administered by the Organization.

(c) Expenses not attributable exclusively to the Special Union but also to one or more other Unions administered by the Organization shall be considered as expenses common to the Unions. The share of the Special Union in such common expenses shall be in proportion to the interest the Special Union has in them.

(2) *[Coordination with Budgets of Other Unions]* The budget of the Special Union shall be established with due regard to the requirements of coordination with the budgets of the other Unions administered by the Organization.

(3) *[Sources of Financing of the Budget]* The budget of the Special Union shall be financed from the following sources:

- (i) international registration fees collected under Article 9 and fees and charges due for other services rendered by the International Bureau in relation to the Special Union;
- (ii) proceeds from the sale of, or royalties on, the publications of the International Bureau concerning the Special Union;
- (iii) gifts, bequests, and subventions;
- (iv) rents, interest, and other miscellaneous income.

(4) *[Fixing of Fees and Charges; Level of the Budget]*

(a) The amounts of the fees referred to in paragraph (3)(i), shall be fixed by the Assembly on the proposal of the Director General. Charges referred to in paragraph (3)(i) shall be established by the Director General and shall be provisionally applied subject to approval by the Assembly at its next session.

(b) The amounts of the fees referred to in paragraph 3(i), shall be so fixed that the revenues of the Special Union from fees and other sources shall be at least sufficient to cover all the expenses of the International Bureau concerning the Special Union.

(c) If the budget is not adopted before the beginning of a new financial period, it shall be at the same level as the budget of the previous year, as provided in the Financial Regulations of the Organization.

(5) *[Working Capital Fund]* The Special Union shall have a working capital fund which shall be constituted by a single payment made by each country of the Special Union. If the fund becomes insufficient, the Assembly shall decide to increase it. The proportion and the terms of payment shall be fixed by the Assembly on the proposal of the Director General.

(6) *[Advances by Host State]*

(a) In the headquarters agreement concluded with the State on the territory of which the Organization has its headquarters, it shall be provided that, whenever the working capital fund is insufficient, such State shall grant advances. The amount of those advances and the conditions on which they are granted shall be the subject of separate agreements, in each case, between such State and the Organization.

(b) The State referred to in subparagraph (a) and the Organization shall each have the right to denounce the obligation to grant advances, by written notification. Denunciation shall take effect three years after the end of the year in which it has been notified.

(7) *[Auditing of Accounts]* The auditing of the accounts shall be effected by one or more of the States members of the Special Union or by external auditors, as provided in the Financial Regulations of the Organization. They shall be designated, with their agreement, by the Assembly.

## Chapter VI Revision and Amendment

### Article 25 Revision

- (1) *[Revision Conferences]* The Agreement may be revised by diplomatic conferences of the Contracting Parties. The convocation of any diplomatic conference shall be decided by the Assembly.
- (2) *[Revision or Amendment of Certain Articles]* Articles 21, 22, 24 and 26 may be amended either by a revision conference or by the Assembly according to the provisions of Article 26.

### Article 26 Amendment of Certain Articles by the Assembly

- (1) *[Proposals for Amendment]*
- (a) Proposals for the amendment of Articles 21, 22, 24, and the present Article, may be initiated by any Contracting Party or by the Director General.
  - (b) Such proposals shall be communicated by the Director General to the Contracting Parties at least six months in advance of their consideration by the Assembly.
- (2) *[Majorities]* Adoption of any amendment to the Articles referred to in paragraph (1) shall require a three-fourths majority, except that adoption of any amendment to Article 21, and to the present paragraph, shall require a four-fifths majority.
- (3) *[Entry into Force]*
- (a) Except where subparagraph (b) applies, any amendment to the Articles referred to in paragraph (1) shall enter into force one month after written notifications of acceptance, effected in accordance with their respective constitutional processes, have been received by the Director General from three-fourths of those Contracting Parties which, at the time the amendment was adopted, were members of the Assembly and had the right to vote on that amendment.
  - (b) Any amendment to Article 21(3) or (4) or to this subparagraph shall not enter into force if, within six months of its adoption by the Assembly, any Contracting Party notifies the Director General that it does not accept such amendment.
  - (c) Any amendment which enters into force in accordance with the provisions of this paragraph shall bind all the States and intergovernmental organizations which are Contracting Parties at the time the amendment enters into force, or which become Contracting Parties at a subsequent date.

## Chapter VII Final Provisions

### Article 27 Becoming Party to the Agreement

- (1) *[Eligibility]* Subject to Article 28 and paragraphs (2) and (3) of the present Article,
- (i) any State which is a member of the Organization may sign and become party to the Agreement;
  - (ii) any intergovernmental organization may become party to the Agreement if at least one member State of that intergovernmental organization is a member of the Organization, and the intergovernmental organization declares that it has been duly authorized, in accordance with its internal procedures, to become party to the Agreement, and declares that, under the constituting treaty of the intergovernmental organization, legislation applies as referred to in Article 5(5), in respect of the subject-matter of the Agreement.
- (2) *[Ratification or Accession]* Any State or intergovernmental organization referred to in paragraph (1), may deposit
- (i) an instrument of ratification, if it has signed the Agreement, or
  - (ii) an instrument of accession, if it has not signed the Agreement.
- (3) *[Effective Date of Deposit]*
- (a) Subject to subparagraphs (b) to (d), the effective date of the deposit of an instrument of ratification or accession shall be the date on which that instrument is deposited.
  - (b) The effective date of the deposit of the instrument of ratification or accession of any State that is a member State of an intergovernmental organization and in respect of which the protection of geographical indications and/or appellations of origin can only be obtained on the basis of legislation as referred to in Article 5(5) applying between the member States of the intergovernmental organization shall be the date on which the instrument of ratification or accession of that intergovernmental organization is deposited, if that date is later than the date on which the instrument of the said State has been deposited. However, this subparagraph does not apply with regard to States that are party to the Lisbon Agreement and shall be without prejudice to the application of Article 30 with regard to such States.

### Article 28 Effective Date of Ratifications and Accessions

- (1) *[Instruments to Be Taken into Consideration]* For the purposes of this Article, only instruments of ratification or accession that are deposited by States or intergovernmental organizations referred to in Article 27(1) and that have an effective date according to Article 27(3) shall be taken into consideration.
- (2) *[Entry into Force of the Agreement]* The Agreement shall enter into force three months after five States have deposited their instruments of ratification or accession.
- (3) *[Entry into Force of Ratifications and Accessions]*
- (a) Any State or intergovernmental organization that has deposited its instrument of ratification or accession three months or more before the date of entry into force of the Agreement shall become bound by the Agreement on the date of entry into force of the Agreement.

(b) Any other State or intergovernmental organization shall become bound by the Agreement three months after the effective date of the deposit of its instrument of ratification or accession or at any later date indicated in that instrument.

(4) *[International Registrations Effected Prior to Accession]* In the territory of the acceding State or intergovernmental organization, the benefits of the Agreement shall apply in respect of geographical indications and appellations of origin already registered under the Agreement at the time the accession becomes effective, subject to the provisions of Chapter IV, which shall apply *mutatis mutandis*. However, the acceding State or intergovernmental organization may specify, in a declaration attached to its instrument of ratification or accession, an extension of the period referred to in Article 15(1), and the periods referred to in Article 17(1), in accordance with the procedures specified in the Regulations in that respect.

#### **Article 29** Prohibition of Reservations

No reservations to the Agreement are permitted.

#### **Article 30** Application of the Lisbon Agreement

(1) *[Relations between States party to both the Agreement and the Lisbon Agreement]* The Agreement alone shall be applicable as regards the mutual relations of States party to both the Agreement and the Lisbon Agreement.

(2) *[Relations between States party to both the Agreement and the Lisbon Agreement and States Party to the Lisbon Agreement without Being Party to the Agreement]* Any State party to both the Agreement and the Lisbon Agreement shall continue to apply the Lisbon Agreement in its relations with States party to the Lisbon Agreement that are not party to the Agreement.

#### **Article 31** Denunciation

(1) *[Notification]* Any Contracting Party may denounce the Agreement by notification addressed to the Director General.

(2) *[Effective Date]* Denunciation shall take effect one year after the date on which the Director General has received the notification or at any later date indicated in the notification. It shall not affect the application of the Agreement to any pending application or any international registration in force in respect of the denouncing Contracting Party at the time of the coming into effect of the denunciation.

**Article 32**

Languages of the Agreement; Signature

(1) *[Original Texts; Official Texts]*

(a) The Agreement shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) Official texts shall be established by the Director General, after consultation with the interested Governments, in such other languages as the Assembly may designate.

(2) *[Time Limit for Signature]* The Agreement shall remain open for signature at the headquarters of the Organization for one year after its adoption.

**Article 33**

Depositary

The Director General shall be the depositary of the Agreement.

[End of Annex and of document]